

Presentation at the First Plenary Meeting  
of the Advisory Committee on Acoustic  
Impacts on Marine Mammals

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Mammals.*

# Advisory Committee on Acoustic Impacts on Marine Mammals

February 3-5, 2004

## **“Overview of Relevant U.S. Regulatory Authorities”**

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Director

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# Considerations for NOAA

- Need to address all forms of noise, all living marine resources
- Policies must be developed consistent with mandates
- All decisions based on the best available scientific and commercial data
- Where science is uncertain, require caution
- MMPA and ESA have take prohibitions
- MMPA and ESA also provide mechanisms allowing takes
- Iterative process

# Presentation Outline

- Roles and responsibilities of NOAA Fisheries for marine mammals
- How NOAA Fisheries obtains, develops and utilizes scientific information
- Critical issues regarding noise impacts on marine mammals facing NOAA Fisheries

## Mandate Goals: The Take Prohibitions

**Develop, implement, and administer programs for the protection, conservation and recovery of marine mammals**

- The MMPA prohibits the “taking of any marine mammal on the high seas by any person subject to the United States, with exceptions. ESA similarly prohibits taking of ESA listed marine mammals
- MMPA: “take” is to [or attempt to] harass, hunt, capture, or kill any marine mammal. If a marine mammal is ESA listed, also includes “harm, pursue, shoot, wound, trap or capture.”

# Mandate Goals: Provisions for Take

## Marine Mammal Protection Act (MMPA)

Section 101 (a)(5) of the MMPA allows the incidental taking of small numbers of marine mammals by U.S. citizens engaging in specified non-fisheries maritime activities within a specified geographic region

- Level A: Injury
- Level B: Harassment

# Statutory Responsibilities

## **Marine Mammal Protection Act (MMPA)**

Authorizations are issued when the activities are determined to:

- 1) Have no more than a negligible impact on the species or stocks of marine mammals
- 2) Take only small numbers of marine mammals
- 3) Not adversely impact the availability of marine mammals intended for subsistence uses
- 4) Regulations prescribe mitigation to have least practicable adverse impact

# Statutory Responsibilities of NOAA Fisheries

## Research Permits

- NOAA Fisheries issues permits to conduct research on marine mammals through the following authorities
- Section 104(c)(3) of the MMPA provides the authority to issue Scientific Research Permits for protected marine mammals
- Section 10(a)(1) of the ESA provides the authority for marine mammals listed under ESA



# Statutory Responsibilities of NOAA Fisheries

## Research Permits

- General authorization vs. individual research permits
- Criteria for individual research permits
  - No significant adverse impact on species or stock
  - Bona fide scientific activity
  - Some provisions of health and welfare of the animal
  - Contribute to knowledge/understanding of biology or ecology of species or stock
  - Consistent with ESA for endangered species

# Statutory Responsibilities of NOAA Fisheries

## Endangered Species Act (ESA)

Section 7(a) of the ESA requires that “each Federal agency shall insure that any action... authorized, funded, or carried out” ... is not likely to jeopardize the continued existence of any listed species or result in the destruction or adverse modification of their habitat”

# How NOAA Fisheries Obtains and Develops Scientific Information

- Conducting management-directed, peer-reviewed scientific research and analysis, particularly where data gaps exist, to fulfill agency mandates
- Funding external scientific studies and convening scientific panels
- Completing thorough scientific literature searches

# How NOAA Fisheries Utilizes Scientific Information

- Informed management decisions are based on best available science.
- National criteria are in development and are expected to provide a clear, consistent foundation for agency decisions
- Data are provided to meet requirements
- Topics of national and international significance are identified and assessed

# Current NOAA Fisheries Issues Related to Noise Impacts on Marine Mammals

- Develop science-based acoustic criteria for single individuals and discrete noise exposures (first time this has been attempted for animals and the first of several steps in a continuing process)
- Conduct research to strengthen the acoustic criteria (fill data gaps); partner with other state, federal, and private entities
- Develop better decision and administrative processes
- Public education and outreach (e.g. lecture series and web)
- Address gaps in Stock Assessment Improvement Plan, Tier III

# Future NOAA Fisheries Issues Related to Noise Impacts on Marine Mammals

- Partner to develop a global noise-monitoring network to systematically measure noise in the marine environment
- Develop acoustic criteria with respect to **cumulative effects** of noise exposure on individuals and ultimately populations; conduct research to support these developing criteria
- Continue to improve our capabilities to make informed management decisions based on best-available science
- Continue public education and constituent outreach



# Expectations from MMC Panel

- Provide comments on the application of acoustic criteria to the development of agency guidelines
- Inform Congress of the complexities of the marine noise issue and potential problem solving research and measures
- Identify new and developing means of addressing the effects of noise on marine environments as focus areas